

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Plaintiff,

v.

THE PRICELINE GROUP INC.,
KAYAK SOFTWARE CORPORATION,
OPENTABLE, INC., AND
PRICELINE.COM LLC,

Defendants.

C.A. No. 15-137-LPS

~~PROPOSED~~ FINAL JUDGMENT

WHEREAS on September 18, 2017, the Court entered an Order and Opinion (the “September 18, 2017 Order and Opinion”) (1) granting Defendants’ motion for summary judgment of noninfringement of the asserted claims of U.S. Patent No. 7,072,849 (the “’849 patent”) and (2) denying Defendants’ motion for summary judgment of indefiniteness of the asserted claims of the ’849 patent. (D.I. 523, 524.)

WHEREAS on January 5, 2018, the Court entered an Order granting the parties’ joint stipulation of partial dismissal of all claims in this action insofar as they relate to U.S. Patent Nos. 5,796,967, 5,961,601, and 7,631,346.

WHEREAS on February 1, 2018, the Court entered a Memorandum Order (the “February 1, 2018 Order”) denying IBM’s motion for reconsideration of the Court’s September 18, 2017 Order and Opinion insofar as it relates to noninfringement of the asserted claims of the ’849 patent by Defendants’ mobile applications. (D.I. 559.)

The Court hereby ENTERS, ORDERS, ADJUDGES, AND DECREES a final judgment as follows:

1. A judgment of noninfringement of the asserted claims of the '849 patent in favor of Defendants and against Plaintiff in light of the Court's September 18, 2017 Order and Opinion and the February 1, 2018 Order. (D.I. 523, 524, 559.)
2. Defendants' remaining counterclaims and defenses insofar as they relate to the '849 patent are dismissed without prejudice as moot.
3. The Parties shall bear their own costs and expenses.

This is a FINAL JUDGEMENT and may be appealed if a notice of appeal is filed within 30 days of the date on which this judgment was ordered.

Approved as to Form and Substance:

POTTER ANDERSON & CORROON LLP

DRINKER BIDDLE & REATH LLP

By: /s/ Bindu A. Palapura

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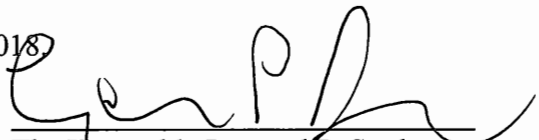
Dated: February 5, 2018
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By: /s/ Francis DiGiovanni

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Inc., KAYAK Software Corporation, OpenTable,
Inc., and Priceline.com LLC*

IT IS SO ORDERED this 5th day of February, 2018.


The Honorable Leonard P. Stark
Chief United States District Judge